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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 DOUGLAS LYNN RISKAS,
12 CDCR #AY-4846,

13 Plaintiff,

14 vs.

15 COUNTY OF SAN DIEGO, et al.,

16 Defendants.
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Case No. 3:16-cv-02317-CAB-BLM

**ORDER DISMISSING CIVIL
ACTION FOR FAILING TO
STATE A CLAIM PURSUANT
TO 28 U.S.C. § 1915(e)(2)(B)(ii) AND
§ 1915A(b)(1) AND FOR FAILING
TO PROSECUTE IN COMPLIANCE
WITH COURT ORDER
REQUIRING AMENDMENT**

19 DOUGLAS LYNN RISKAS (Plaintiff), proceeding pro se, and incarcerated at the
20 California Correctional Institution in Tehachapi, California, filed this civil rights action
21 pursuant to 42 U.S.C. § 1983. In his Complaint, Plaintiff alleged the County of San Diego,
22 San Diego County Sheriff William Gore, and 50 unidentified deputies at George Bailey
23 Detention Facility failed to protect him from assault, and failed to provide him adequate
24 medical care while he was a pretrial detainee there in late 2015 and early 2016. (ECF No.
25 1 at 9-23.)

26 **I. Procedural Background**

27 On February 10, 2017, the Court granted Plaintiff leave to proceed in forma pauperis
28 (IFP), but dismissed his Complaint for failing to state a claim upon which relief can be

1 granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and § 1915A(b)(1) (ECF No. 5). Plaintiff
2 was informed of his various pleading deficiencies, and granted 45 days leave in which to
3 file an Amended Complaint. (*Id.* at 5-14.) Indeed, the Clerk of Court provided him a blank
4 copy of the Court’s form § 1983 Complaint for his use in amending. (*Id.* at 14.)

5 Almost four months have passed since the Court’s February 10, 2017 Order. But
6 Plaintiff has not filed an Amended Complaint, nor has he requested an extension of time
7 in which to do so.

8 “If a plaintiff does not take advantage of the opportunity to fix his complaint, a
9 district court may convert the dismissal of the complaint into a dismissal of the entire
10 action.” *Lira v. Herrera*, 427 F.3d 1164, 1169 (9th Cir. 2005). “The failure of the plaintiff
11 eventually to respond to the court’s ultimatum—either by amending the complaint or by
12 indicating to the court that [he] will not do so—is properly met with the sanction of a Rule
13 41(b) dismissal.” *Edwards v. Marin Park*, 356 F.3d 1058, 1065 (9th Cir. 2004).


14 **II. Conclusion and Order**

15 Accordingly, the Court **DISMISSES** this civil action in its entirety without prejudice
16 based on Plaintiff’s failure to state a claim upon which § 1983 relief can be granted pursuant
17 to 28 U.S.C. § 1915(e)(2)(B)(ii) and § 1915A(b)(1), and his failure to prosecute pursuant
18 to FED. R. CIV. P. 41(b) in compliance with the Court’s February 10, 2017 Order (ECF No.
19 5).

20 The Court further **CERTIFIES** that an IFP appeal would not be taken in good faith
21 pursuant to 28 U.S.C. § 1915(a)(3) and **DIRECTS** the Clerk to enter a final judgment of
22 dismissal and to close the file.

23 **IT IS SO ORDERED.**

24 Dated: June 12, 2017

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27 Hon. Cathy Ann Bencivengo
28 United States District Judge